

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of: KRAVITZ	)	Group Art Unit 3641
	)	
Serial No.: 10/590,830	)	Examiner: JOHNSON, Stephen
	)	
Filed: August 28, 2006	)	Docket No. BAE.1005
	)	
For: System and Method for Providing	)	
a Cooperative Network for Applying	)	
Countermeasures to Airbourne Threats	)	Appeal No.:

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**APPELLANTS' REPLY BRIEF**

HAYES SOLOWAY P.C.  
3450 E. SUNRISE DRIVE  
SUITE 140  
TUCSON, AZ 85718  
TEL. 520.882.7623  
FAX. 520.882.7643

175 CANAL STREET  
MANCHESTER, NH 03101  
TEL. 603.668.1400  
FAX. 603.668.8567

**TABLE OF CONTENTS**

	<u>Page</u>
APPELLANTS' REPLY BRIEF UNDER 37 CFR 1.193 (b).....	1
STATUS OF CLAIMS.....	2
GROUND OF REJECTION TO BE REVIEWED ON APPEAL .....	3
ARGUMENTS.....	4
CONCLUSION.....	7

HAYES SOLOWAY P.C.  
3450 E. SUNRISE DRIVE  
SUITE 140  
TUCSON, AZ 85718  
TEL. 520.882.7623  
FAX. 520.882.7643

175 CANAL STREET  
MANCHESTER, NH 03101  
TEL. 603.668.1400  
FAX. 603.668.8567

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of: KRAVITZ	)	Group Art Unit 3641
	)	
Serial No.: 10/590,830	)	Examiner: JOHNSON, Stephen
	)	
Filed: August 28, 2006	)	Docket No. BAE.1005
	)	
For: System and Method for Providing	)	
a Cooperative Network for Applying	)	
Countermeasures to Airbourne Threats	)	Appeal No.:

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**APPELLANTS' REPLY BRIEF UNDER 37 CFR 1.193 (b)**

This Reply Brief is being filed in response to the Examiner's Answer mailed February 2, 2010. Appellant responds to these new points of argument as follows.

HAYES SOLOWAY P.C.  
3450 E. SUNRISE DRIVE,  
SUITE 140  
TUCSON, AZ 85718  
TEL. 520.882.7623  
FAX. 520.882.7643

175 CANAL STREET  
MANCHESTER, NH 03101  
TEL. 603.668.1400  
FAX. 603.668.8567

**STATUS OF CLAIMS**

Claims 1-4 and 6-21 are pending in the application. Claims 8, 9, 15, 16 and 18 are allowed. Claim 5 was cancelled. Claims 6 and 21 are objected to in view of the withdrawal of the rejection of the rejection of claims 1-4, 6 and 21 over Malakatas in view of Ebert.

**HAYES SOLOWAY P.C.**  
3450 E. SUNRISE DRIVE,  
SUITE 140  
TUCSON, AZ 85718  
TEL. 520.882.7623  
FAX. 520.882.7643

175 CANAL STREET  
MANCHESTER, NH 03101  
TEL. 603.668.1400  
FAX. 603.668.8567

**GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

The issues in this appeal are:

1. Whether claim 1 is patentable over U.S. Patent No. 6,980,152 to Steadman, with regards to 35 U.S.C. § 102(e);
2. Whether claims 17, 19, and 20 are patentable over U.S. Patent No. 5,992,288 to Barnes, with regards to 35 U.S.C. § 102(b);
3. Whether claims 2-4 are patentable over U.S. Patent No. 6,980,152 to Steadman in view of U.S. Patent No. 5,992,288 to Barnes, with regards to 35 U.S.C. § 103(a);
4. Whether claims 7 and 10-16 are patentable over U.S. Patent No. 5,992,288 to Barnes, in view of U.S. Patent No. 6,467,388 to Malakatas, with regards to 35 U.S.C. § 103(a).

HAYES SOLOWAY P.C.  
3450 E. SUNRISE DRIVE,  
SUITE 140  
TUCSON, AZ 85718  
TEL. 520.882.7623  
FAX. 520.882.7643

175 CANAL STREET  
MANCHESTER, NH 03101  
TEL. 603.668.1400  
FAX. 603.668.8567

## ARGUMENTS

The Applicant is satisfied with the arguments raised in the appeal brief, which have generally not been adequately addressed by the Examiner's Answer. Specific flaws in the Examiner's Answer are herein identified.

### 1. Steadman

The Applicant stated in the Appeal Brief that nothing in Steadman indicates the processor 116 has specific knowledge of the countermeasure 141 located on the aircraft, but instead simply signals the aircraft ACS (141 in Steadman) that a threat has been recognized and identifies the recognized threat. The Examiner cites four passages to refute this position. The first (col. 5, line 23 to col. 6, line 6) summarily describes the processor 116 and some countermeasures (not 141) and fails to describe the processor 116 controlling anything on the airplane. The remaining passages (col. 7, lines 7-19; col. 8, lines 40-59; and col. 10, lines 1-22) fail to mention processor 116 or any processor. Not coincidentally, none of these passages have been cited in previous office actions or pages 3 and 4 of the answer, where the rejections were explained.

The Examiner states in his rebuttal that "all that is required to send a particular countermeasure is to selectively cue or selectively turn on a particular selected countermeasure" and argues decision logic block 318 is responsible for selectively cuing a particular ACS. However decision logic block 318 only decides if a threat exists (see col. 7, lines 7-19), it does not select a countermeasure from the countermeasure system to deploy.

Nothing in Steadman discloses an aircraft: 1) having an onboard countermeasure system that can control deployment of countermeasures; and 2) a central management system that can control the onboard system. The claim requires control from on the aircraft and from a separate

central system. The Applicant has argued Steadman does not have the central management system that controls the onboard system. In the very least, Steadman does not disclose two distinct systems that control countermeasure deployment.

## 2. Barnes

Here, the Examiner has misidentified the argument. The Applicant's position is not that Barnes fails to disclose "determining threat information", but that Barnes fails to disclose "determining threat information [remotely]." The first two elements of claim 17 are "determining threat information about said airborne threat; transmitting said threat information to a remote device." Barnes does not disclose this requirement.

The Examiner's rejection fails. The Examiner describes the TIC + The Target Priority Database + the Target/Weapon Pairing Knowledge Database (collectively "TIC++") as residing in one location. The Examiner describes the TIC++ as being the remote device as claimed (page 8 of the Answer, lines 12-13). Barnes does not disclose "determining threat information about said airborne threat; transmitting said threat information to" TIC++. The Examiner identifies Barnes as determining threat information as disclosed at col. 4, lines 49-55 and in FIG. 7, using the Zone Target Table, which is part of the Target Priority Database, which is part of TIC++, which is the remote device. The remote device cannot transmit threat information to itself or be remote from itself.

In the pending application, the claimed system was described, in one embodiment, as a countermeasure system aboard an airplane determining threat information and transmitting said threat information to a remote source with the source information, then receiving instructions from the remote source to deploy a counter measure. The remote device is the central

countermeasure system, which decides how to respond to the threat information and issues the instructions. Claim 17 is not anticipated by Barnes.

### 3. Malakatas

Claim 7 requires 1) threat information from Source A; 2) information about Source A; 3) identifying the threat and proper countermeasure from a separate location; and 4) instructing Source A to deploy the proper countermeasure. The Examiner is using the disclosure of Malakatas, not Barnes “to teach the threat information and the countermeasure originate from the same source.” Page 9, line 5-7 of the Answer. For this purpose, the Examiner relies on col. 3, lines 48-52 of Malakatas (page 9, line 12 of the Answer), which discloses “the firing units linked in this way are basically autonomous ... but act in a coordinated manner.” This arrangement does not disclose the elements of claim 7. The Examiner further referenced the Background of Malakatas, which discloses a different device/arrangement than the aforementioned Malakatas citation.

The Examiner goes on to suggest that “Malakatas is only being relied upon to teach the claim limitations directed to the threat information and the deployed countermeasures originating from the same source.” Thus, neither Malakatas, nor Barnes is being cited for the requirement “receiving source information about said remote source.” As is disclosed, for example in claim 11, the remote source information could be the roll or horizontal elevation of the remote source (aircraft sending the threat information). As Barnes has not been cited as disclosing this requirement and Malakatas is not cited as disclosing this requirement, the Examiner has failed to make a prima facie case for obviousness as the combination of references fails to disclose every element of the claimed invention.



**CONCLUSION**

In view of the foregoing, it is respectfully requested that the Examiner's rejection of the subject application be reversed in all respects.

Respectfully submitted,



Todd A. Sullivan  
Attorney for Appellant  
Reg. No. 47,117

Customer No. 26,812

**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that this correspondence is being deposited with the United States Patent Office via the electronic filing procedure on April 1, 2010.

By 

**HAYES SOLOWAY P.C.**  
3450 E. SUNRISE DRIVE,  
SUITE 140  
TUCSON, AZ 85718  
TEL. 520.882.7623  
FAX. 520.882.7643

175 CANAL STREET  
MANCHESTER, NH 03101  
TEL. 603.668.1400  
FAX. 603.668.8567